

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JACOB O. MILLER,

Plaintiff,

v.

No. CV 14-0020 LH/LAM

**PROBATION and PAROLE DIVISION
of the STATE OF NEW MEXICO, et al.,**

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. On April 6, 2016, Defendants City of Albuquerque and Jessie Carter filed a motion for summary judgment [*Doc. 69*]. Plaintiff has not filed a response to the motion for summary, and the time for doing so has passed. “The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” D.N.M.LR-Civ. 7.1(b). In the event Plaintiff has been released from custody or transferred, he has not advised the Court of his new address as required by D.N.M.LR-Civ. 83.6. In addition, the last document Plaintiff filed in this case was on July 20, 2015. *See* [*Doc. 64*]. Plaintiff’s failure to respond to Defendants’ motion for summary judgment indicates a lack of interest in litigating his claims which may subject him to dismissal of this action for lack of prosecution. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”) (footnote and citations omitted), *Oleson v. Mapes*, 333 F.3d 1199, 1204, n.3

(10th Cir. 2003) (same), and *Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984) (“Courts have the inherent power to impose a variety of sanctions on both litigants and attorneys in order to regulate their docket, promote judicial efficiency, and deter frivolous filings.”) (citations omitted). Therefore, the Court will require Plaintiff to show cause why this case should not be dismissed.

IT IS THEREFORE ORDERED THAT no later than Monday, June 6, 2016, Plaintiff shall either file with the Court a response to Defendants’ motion for summary judgment, or file with the Court a response to this Order showing cause why this case should not be dismissed. Whichever he chooses to file, Plaintiff must serve a copy on Defendants. *Plaintiff is also hereby notified that failure to respond to this Order may result in dismissal of this case without prejudice and without further notice.*

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE